

ATTORNEY'S DOCKET NO: C1104-7061.20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George G. Mueller et al.
Serial No: Not yet assigned
Confirm No.: Not yet assigned
Filed: Herewith
For: METHODS AND APPARATUS FOR GENERATING AND
MODULATING ILLUMINATION CONDITIONS
Examiner: Y. Quach Lee
Art Unit: 2875

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir/Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case.

No fee or certification is required.

PART II: Information Cited

The Applicants hereby make of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that two U.S. patents currently assigned to the same assignee of the present application (i.e., Color Kinetics, Inc.) have been involved in litigation. These patents include U.S. Patent No. 6,016,038 (U.S. Serial No. 08/920,156) and U.S. Patent No. 6,150,774 (U.S. Serial No. 09/425,770), both assigned to Color Kinetics, Inc. The present application also incorporates by reference the entirety of U.S. Serial No. 08/920,156.

The aforementioned patents both are involved in the following litigations: Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, and Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts.

Applicants acknowledge the duty to disclose to the U.S. Patent Office material information that may arise from these litigations, including evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure," or any assertion which is contradictory to assertions made to the Examiner during prosecution of the present application.

To this end, Applicants submit to the Examiner in the present Information Disclosure Statement various prior art that arose in connection with the above-identified litigations. Applicants also wish to make of record in the present application the following documents from the litigations:

- A. Case No. 6:02-cv-270-ORL-19JGG
 - 1. Plaintiff's Amended Verified Complaint
 - 2. Defendant's Answer and Counterclaims

3. Plaintiff's Answer to Counterclaims
4. Plaintiff's Answers to Defendant's First Set of Interrogatories

Three exhibits originally accompanied document 4 above: Exhibit 1, which is an affidavit of Kevin Furry and Chuck Somerville; Exhibit 2, which is a confidential financial statement furnished by the Plaintiff; and Exhibit 3, which is a confidential opinion of counsel obtained by the Plaintiff relating to validity and non-infringement of the asserted patents. Exhibit 1 is cited herein (and appears on the accompanying PTO Form-1449). Both Exhibits 2 and 3 accompanying document 4 were marked "Confidential," pursuant to a Confidentiality Agreement between the parties in the Florida case, and hence have not been disclosed to the United States Patent and Trademark Office.

B. Case No. 02 CV 11137MEL

1. Plaintiff's Complaint and Jury Demand
2. Defendant's Answer and Affirmative Defenses

Applicants make no representation that the documents identified herein relating to these litigations provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of these litigations. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART III: Explanation of Non-English Language References

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):

Some of the references listed on the attached form PTO-1449 (modified) were cited in at least one of five oppositions filed against a European counterpart to U.S. Patent No. 6,016,038

Serial No.: Not yet assigned
Conf. No.: Not yet assigned

- 4 -

Art Unit: 2875
Attorney Docket No.: C1104-7061.20

(U.S. Serial No. 08/920,156), discussed above in Part II. The European counterpart is EP Patent No. 1,016,062, EP Serial No. 98944539.0. Again, the present application, like U.S. Serial No. 08/920,156, currently is assigned to Color Kinetics, Inc., and incorporates by reference the entirety of U.S. Serial No. 08/920,156.

Applicants make no representation that the documents cited herein relating to the European oppositions provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of these oppositions. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

Serial No.: Not yet assigned
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- 5 -

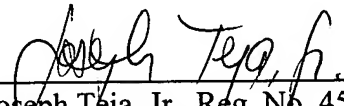
Art Unit: 2875
Attorney Docket No.: C1104-7061.20

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,
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By: 

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Docket No. C1104-7061.20
Date: November 10, 2003

FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: Not yet assigned		ATTY. DOCKET NO.: C1104-7061.20			
				FILING DATE: Herewith		CONFIRMATION NO.: Not yet assigned			
				APPLICANT: George G. Mueller et al.					
				GROUP ART UNIT: 2875		EXAMINER: Y. Quach Lee			
Sheet	1	Of	3						

U.S. PATENT DOCUMENTS

Examiner's Initials	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		*US 2003/0189412	A1	Cunningham	10/09/2003
		*4,271,408		Teshima, et al.	06/02/1981
		*4,339,788		White et al.	07/13/1982
		*4,342,947		Bloyd	08/03/1982
		*4,455,562		Dolan et al.	06/19/1984
		*4,857,801		Farrell	08/15/1989
		*4,870,325		Kazar	09/26/1989
		*5,008,788		Palinkas	04/16/1991
		*5,036,248		McEwan, et al.	07/30/1991
		*5,038,255		Nishihashi, et al.	08/06/1991
		*5,089,748		Ihms	02/18/1992
		*5,161,879		McDermott	11/10/1992
		*5,278,542		Smith, et al.	01/11/1994
		*5,287,352	A	Jackson et al.	02/15/1994
		*5,375,043		Tokunaga	12/20/1994
		*5,450,301		Waltz, et al.	09/12/1995
		*5,519,496		Bogert, et al.	05/21/1996
		*5,559,681		Duarte	09/24/1996
		*5,621,282		Haskell	04/15/1997
		*5,621,603	A	Adamec et al.	04/15/1997
		*5,634,711		Kennedy, et al.	06/03/1997
		*5,688,042	A	Madadi et al.	11/18/1997
		*5,712,650		Barlow	01/27/1998
		*5,790,329	A	Klaus et al.	08/04/1998
		*5,812,105		Van de Ven	09/22/1998
		*5,850,126		Kanbar	12/15/1998
		*5,854,542		Forbes	12/29/1998
		*5,907,742		Johnson et al.	05/25/1999
		*6,020,825		Chansky et al.	02/01/2000
		*6,127,783		Pashley et al.	10/03/2000
		*6,183,104	B1	Ferrara	02/06/2001
		*6,323,832	B1	Nishizawa, et al.	11/27/2001

FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: Not yet assigned		ATTY. DOCKET NO.: C1104-7061.20			
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				APPLICANT: George G. Mueller et al.					
				GROUP ART UNIT: 2875		EXAMINER: Y. Quach Lee			
Sheet	2	Of	3						

FOREIGN PATENT DOCUMENTS

Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			
		*GB	2131589	A	Integrated Systems Engineering, Inc.	11/04/1982	
		*GB	2210720	A	Eric Cheng	06/14/1989	
		*CA	2134848		Vari-Lite, Inc.	11/24/1998	
		*EP	1162400	A2	Omnilux s.r.l.	12/12/2001	
		*DE	9414689		Schlumer, Heinz-Dieter	02/02/1995	Yes
		*DE	29620583	U1	Kundisch Microtech GmbH	03/27/1997	Yes
		*WO	99/06759		Showers International Pty. Ltd.	02/11/1999	
		*WO	02/061328	A1	Ilight Technologies, Inc.	08/08/2002	
		*DE	3917101		Rienecker Wolfgang Prof Dr Ing	11/29/1990	Yes
		*DE	19602891	A1	Kammerer GmbH M	07/30/1997	Yes
		*DE	3916875		Ullmann Ulo Werk	12/06/1990	Yes
		*DE	19525897		Kostal Leopold GmbH & Co	10/02/1996	Yes
		*DE	03805998		Siemens AG	09/07/1989	Abstract
		*DE	03837313		Cheng Eric	05/24/1989	Yes
		*JP	6 43830		NEC Corp.	02/18/1994	Yes
		*DE	8902905		Siemens AG	05/17/1990	No
		*DE	205307		Buero Fuer Schutzrechte Vels Werk	12/21/1983	No
		*KR	1019910009812		Samsung Electronics Co.	11/30/1991	Abstract
		*DE	29607270	U1	Kador und Kollegen	08/29/1996	No
		*DE	4041338	A1	Bayerische Motoren Werke AG	07/01/1992	Abstract
		*JP	2247688			03/10/1990	No
		*DE	4419006	A1	Kella KG Hueck & Co.	12/06/1995	Abstract
		*DE	4130576	C1	Siemens AG	03/17/1993	Abstract
		*EP	567280	B1	Hughs Aircraft Co.	10/27/1993	
		*DE	19651140	A1	Loptique Ges Fuer Lichtsysteme	06/19/1997	Abstract
		*DE	3925767	A1	Siemens AG	04/26/1990	Abstract
		*DE	2315709		Licentia Patent-Verwaltungs	10/10/1974	No
		*DE	3438154	A1	SWF Auto Electric GmbH	04/24/1986	Abstract
		*EP	482680	A1	N.V. Phillips	04/29/1992	
		*EP	734082	A2	Motorola, Inc.	09/25/1996	
		*DE	9414688	U1	Schlumer, Heinz-Dieter	02/02/1995	No

FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT		APPLICATION NO.: Not yet assigned		ATTY. DOCKET NO.: C1104-7061.20	
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		APPLICANT: George G. Mueller et al.			
		GROUP ART UNIT: 2875		EXAMINER: Y. Quach Lee	
Sheet	3	Of	3		

U.S. PATENT DOCUMENTS

OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)	
		*Hewlett Packard Components, "Solid State Display and Optoelectronics Designer's Catalog," pp. 30-43, July 1973		
		*INTEC Research, TRACKSPOT, http://www.intec-research.com/trackspot.htm , pp. 1-4, April 24, 2003.		
		*SHARP, Optoelectronics Data Book, pp. 1096-1097, 1994/1995		
		*About DMX-512 Lighting Protocol – Pangolin Laser Systems, pp. 1-4, April 7, 2003		
		*Avitec Licht Design '89-90, pp. 1-4	No	
		*Dr. Ing, Ulrich Tietze, Dr. Ing, Christoph Schenk, pp. 566-569	No	
		*FURRY, Kevin and SOMERVILLE, Chuck, Affidavit, LED effects, February 22, 2002, pp. 24-29.		
		*PUTMAN, Peter H., "The Allure of LED," www.sromagazine.biz , June/July 2002, pp. 47-52.		
		*BREMER, Darlene, "LED Advancements Increase Potential," www.ecmag.com , April 2002, p. 115.		
		*LONGO, Linda, "LEDs Lead the Way," Home Lighting & Accessories, June 2002, pp. 226-234.		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Amended Verified Complaint		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Defendant's Answer and Counterclaims		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Answer to Counterclaims		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Answers to Defendant's First Set of Interrogatories w/Exhibit 1		
		*Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts, Plaintiff's Complaint and Jury Demand		
		*Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts, Defendant's Answer and Affirmative Defenses		
EXAMINER			DATE CONSIDERED	

#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

* a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 09/716,819, filed November 20, 2000, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

[NOTE - Must provide a copy of any patent, publication, other information listed, even if it was previously submitted to, or cited by, the U.S. Patent Office in an earlier application, unless the earlier application is identified by the IDS and is relied upon for an earlier filing date under 35 U.S.C. §120, and the copy was provided in the earlier application.]

Attorney's Docket No.: C1104-7061.20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alfred D. Ducharme, et al.
Serial No.: Not yet assigned
Confirm. No.: Not yet assigned
Filed: Herewith
For: SYSTEMS AND METHODS FOR GENERATING AND
MODULATING ILLUMINATION CONDITIONS
Examiner: Y. Quach Lee
Art Unit: 2875

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR INTERFERENCE PURSUANT TO 37 C.F.R. 1.604

Sir/Madam:

Pursuant to 37 C.F.R. 1.604, Applicants respectfully request that an interference be declared between the present application and pending U.S. Non-provisional Application Serial No. 10/118,828, filed April 9, 2002, entitled "Lighting Fixture for Producing a Beam of Light Having a Controlled Luminous Flux Spectrum," naming inventor David W. Cunningham (hereinafter referred to as "the '828 application"). A notice of allowance in the '828 application was mailed on July 16, 2003.

Each of claims 1-43 of the present application is identical to claims 1-43 of the '828 application as published on October 9, 2003. A copy of the '828 application as published, Publication No. US 2003/0189412 A1, is attached for the Examiner's reference.

Applicants hereby suggest two proposed counts for the interference:

Count 1:

A lighting fixture for producing a beam of light having a luminous flux spectrum emulating that of a beam of light produced by a predetermined light source having an incandescent lamp, the lighting fixture comprising:

a plurality of groups of light-emitting devices, each such group configured to emit light having a distinct luminous flux spectrum; and

a controller configurable to supply selected amounts of electrical power to the plurality of groups of light-emitting devices, such that the groups cooperate to produce a composite beam of light having a prescribed luminous flux spectrum that approximates the luminous flux spectrum of a beam of light produced by the predetermined light source having the incandescent lamp.

Count 2:

A lighting fixture for producing a beam of light having a prescribed luminous flux spectrum, the lighting fixture comprising:

a plurality of groups of light-emitting devices, each such group configured to emit light having a distinct luminous flux spectrum; and

a controller configurable to supply selected amounts of electrical power to the plurality of groups of light-emitting devices, such that the groups cooperate to produce a composite beam of light having a prescribed luminous flux spectrum.

Each of the above counts is believed to define a separate patentable invention. Count 1 is supported in the present specification at least on page 6, lines 6-13; page 9, lines 3-25; and page 28, lines 15-30, as well as in several other portions of the specification. Count 2 is supported at least on page 14, line 3 through page 15, line 25, as well as in several other portions of the specification.

Independent claim 1 of the present application, as well as claim 1 of the '828 application, correspond substantially to count 1, which is a phantom count with respect to these claims. As with Count 1, support for claim 1 can be found at least on page 6, lines 6-13; page 9, lines 3-25; and page 28, lines 15-30, as well as in several other portions of the specification.

Independent claims 15, 28, 36 and 41 of the present application, as well as claims 15, 28, 36 and 41 of the '828 application, correspond substantially to count 2, which is a phantom count with respect to these claims.

Support for independent claim 15 may be found at least on page 9, line 30 through page 10, line 4, as well as in other portions of the specification.

Support for independent claim 28 may be found at least on page 19, line 10 through page 20, line 2 and page 28, lines 25-27, as well as in other portions of the specification.

Support for independent claims 36 and 41 may be found at least on page 34, line 18 through page 36, line 5, as well as in other portions of the specification.

Applicants respectfully believe an interference should be declared because questions of patentability and priority of invention between two or more parties claiming the same patentable invention need to be resolved.

The Examiner is encouraged to contact the undersigned at the number listed below if any questions arise in connection with this request for interference.

Respectfully submitted,

Alfred A. Ducharme, et al., Applicants

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Attorney Docket No.: C1104-7061.20
Dated: November 10, 2003